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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181035
Party	Defendant Koury, Tiffany C.
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Submission	Answer
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Date	01/12/2008
Attachments	TMANSWERpdf.pdf (7 pages)(26036 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 78/912,427
Published in the Official Gazette (Trademarks) on September 4, 2007

TIFFANY (NJ) INC. Opposer, v. TIFFANY C. KOURY, Applicant.	Opposition No. Mark: TIFFANY KOURY
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Commissioner For Trademarks
PO Box 1451
Alexandria, VA 22313-1451

CERTIFICATE UNDER 37 C.F.R. § 1.8: Express Mail mailing label number _____

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service, "Express Mail Post Office to Addressee" in an envelope addressed to: Commissioner For Trademarks, PO Box 1451, Alexandria, VA 22313-1451, on April 11, 2003.

By: _____
Diana Au

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Tiffany C. Koury, hereby files this Answer in response to the Notice of Opposition filed by Tiffany (NJ) INC. with the Trademark Trial and Appeal Board, and dated December 12, 2007. Tiffany C. Koury answers the Notice of Opposition ("Opposition") as follows:

NEWMAN & DICHTER, ATTORNEYS AT LAW, LLP
1001 Fourth Avenue Plaza, Suite 2500
phone: (206) 624-8633
fax: (206) 624-6348

1. In answer to the averments of Paragraph 1 (each here inafter referred to as a “Paragraph”) of the Opposition, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 1, and based thereon denies all averments of Paragraph 1.

2. In answer to the averments of Paragraph 2, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 2, and based thereon denies all averments Paragraph 2.

3. In answer to the averments of Paragraph 3, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 3, and based thereon denies all averments Paragraph 3.

4. In answer to the averments of Paragraph 4, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 4, and based thereon denies all averments Paragraph 4.

5. In answer to the averments of Paragraph 5, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 5, and based thereon denies all averments Paragraph 5 .

6. In answer to the averments of Paragraph 6, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 6, and based thereon denies all averments Paragraph 6. .

7. The averments of Paragraph 7 are denied.

8. In answer to the averments of Paragraph 8, Tiffany C. Koury is without knowledge or information sufficient to form a belief as to the truth of the

avermments of Paragraph 8, and based thereo n denies al l averments Paragraph 8.

9. In answer to the averments of Paragraph 9, Tiffany C. Koury is w ithout knowledge or information suffic ient to form a be lief as to the truth of the averments of Paragraph 9, and based thereo n denies al l averments Paragraph 9.
10. The averments of Parag raph 10 are denied.
11. The averments of Parag raph 11 are admitted.
12. The averments of Parag raph 12 are admitted.
13. The averments of Parag raph 13 are denied.
14. The averments of Parag raph 14 are denied.
15. The averments of Parag raph 15 are denied.
16. The averments of Parag raph 16 are denied.
17. The averments of Parag raph 17 are denied.
18. The averments of Parag raph 18 are denied.
19. The averments of Parag raph 19 are denied.
20. The averments of Parag raph 20 are denied.
21. The averments of Parag raph 21 are denied.

AFFIRMATIVE DE FENSES

In further answer to the Oppo sition, Tiffany C. Koury asserts the following affirmative defenses:

Tiffany is Applicant's Name

22. "Tiffany" is a commo n and freque ntly used name for wome n and gir ls. In fact, it is applicant's own name.

23. The name “Tiffany” is not unusual or invented by Opposer. The name “Tiffany” is not exclusively associated with Opposer. In fact, the name “Tiffany” is associated with Applicant and every other woman in the world who bears the name.

24. Applicant merely seeks to trademark her own name to be used as a label upon her couture fashion line. Indeed, the full name “Tiffany Koury” is associated with couture fashion. Opposer does not market, produce or sell couture fashion.

25. Applicant should thus be entitled to use her own name as a trademark on her line of couture fashion; not unlike Ralph Lauren, Donna Karen or Vera Wang..

Acquiescence and Estoppel

26. Opposers have acquiesced in Tiffany Koury’s and others’ use of the name “Tiffany”.

27. Opposers should be equitably estopped from asserting trademark or service mark rights in the term “Tiffany” with respect to Tiffany Koury and any couture fashion products or services. Indeed, the word “Tiffany” is utilized in many registered trademarks that are for goods and services dissimilar to Opposers. Consequently, the term “Tiffany” is part of a crowded field and not all marks utilizing the word “Tiffany” are opposed by opposer. Accordingly, opposer is engaging in selective enforcement of its own mark and/or is not sufficiently diligent in protection of its mark.

No Likelihood of Confusion

28. There is no likelihood of confusion between the origin of Opposers’ products and services and the products and services of Tiffany C. Koury.

29. Opposers have registered the “Tiffany & Co” mark and family of marks with

respect to jewelry, collectibles, china, silverware. Tiffany C. Koury seeks to register the “TIFFANY KOURY”¹ mark with respect to couture clothing.

30. Because the products and services of Tiffany C. Koury and Opposers are dissimilar, there is no likelihood that consumers would believe that Opposers are associated in any way with Tiffany C. Koury or Tiffany C. Koury’s products or services. Nor is there any likelihood that consumers would believe that Opposers endorse Tiffany C. Koury or any of her products or services. Indeed, it is more likely that consumers will likely believe that the “Tiffany Koury” mark is the name of the designer of the couture fashion and not related to Opposer.

31. The products and services of Tiffany C. Koury and Opposers are marketed through different and distinct marketing channels. Opposers’ products are primarily marketed through its own retail stores and direct mail catalogues. Tiffany C. Koury’s products and services, on the other hand, are marketed through trunk shows and private fashion events. Because there is no overlap of marketing channels, there is no likelihood of confusion with respect to Tiffany C. Koury and its relationship to Opposers or with respect to any Tiffany C. Koury products or services.

RELIEF REQUESTED

32. Tiffany C. Koury respectfully requests that Opposers’ opposition be dismissed and that Tiffany C. Koury’s registration issue forthwith.

Dated this 11th day of January, 2008.

Respectfully Submitted

NEWMAN & DICHTER
ATTORNEYS AT LAW, LLP

By: _____
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Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing NOTICE OF OPPOSITION to be sent by prepaid first class mail on this 12 day of January 2008 to Opposer's correspondent of record:

BARBARA A. SOLOMON
Fross Zelnick Lehrman & Zissu, P.C.
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New York, NY 10017
212 813-5900

Kathy Lane